

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

TRUSTEES OF THE DETROIT  
CARPENTERS FRINGE BENEFIT FUNDS,

Plaintiffs,

v

Case No.  
Hon.

KAYWAZEE INSTALLATIONS, INC.,  
a Michigan corporation,

Defendant.

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WALTER B. FISHER JR. (P51337)  
**KOTZ SANGSTER WYSOCKI, P.C.**  
Attorneys for Plaintiffs  
400 Renaissance Center, Suite 3400  
Detroit, MI 48243  
(313) 259-8300  
[wfisher@kotzsangster.com](mailto:wfisher@kotzsangster.com)

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**COMPLAINT**

Plaintiffs, by their attorneys, Kotz Sangster Wysocki, P.C. state:

1. The Detroit Carpenters Fringe Benefit Funds, a voluntary association, consists of representatives and agents of the Detroit Carpenters Health and Welfare Fund, the Michigan Regional Council of Carpenters Employee Benefits Fund, the Carpenters Pension Trust Fund - Detroit and Vicinity, the Carpenters Annuity Fund, The Michigan Regional Council of Carpenters Annuity Fund, the Carpenters Vacation

and Holiday Trust Fund - Detroit and Vicinity, the Detroit Carpenters Joint Apprenticeship and Training Trust Fund, the Guarantee Fund and the Industry Advancement Fund (if applicable), each of which is a trust fund established pursuant to the Labor-Management Relations Act of 1947 (“LMRA”), as amended, 29 U.S.C., Section 141 et seq., and the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C., Section 1001 et seq., having its principal office in this District and Division. Plaintiffs are trustees of the funds named, on whose behalf, and on behalf of whose beneficiaries, this action is filed, as their respective interests shall appear.

2. Defendant Kaywazee Installations, Inc. (“Kaywazee”) (“Defendant”) is doing business in this district and division.

3. Jurisdiction of this Court is predicated on Section 301 of the LMRA, 29 U.S.C., Section 185, and Section 502 of ERISA, 29 U.S.C., Section 1132, this being a suit for violation of a contract between an employer (Defendant) and the Michigan Regional Council of Carpenters, AFL-CIO, the successor to the Carpenters District Council of Detroit, (the “Union”), a labor organization representing employees in an industry affecting commerce.

**Count I - ERISA Claim**

4. Defendant, either directly or through its authorized agents, has entered into one or more collective bargaining agreements with the Union, copies of which are in the possession of the Defendant and are not attached hereto due to their bulk, but which will be supplied upon request.

5. Pursuant to the collective bargaining agreements Defendant became obligated to pay wages and to make periodic payments to the Funds represented by Plaintiffs, which payments constituted employee benefits earned by employees of the Defendant who were either members, or fell within the jurisdiction, of the Union and were covered by the collective bargaining agreements.

6. Pursuant to the collective bargaining agreements alleged above, Plaintiffs are entitled to audit the books and records of Defendant to verify the accuracy of the contributions made to Plaintiffs pursuant to the agreements as well as to determine the amount of any deficiency. The books and records required include those listed on Exhibit A.

7. Plaintiffs demand production of the Defendant's books and records on September 22, 2021 and December 6, 2021. A copy of the demands are attached as Exhibit B.

8. Despite demands by Plaintiffs Defendant has failed, neglected and refused to permit the audit.

**WHEREFORE**, Plaintiffs pray:

A. That this court enter an order directing Defendant to submit to Plaintiffs for audit the books and records of Kaywazee Installations, Inc. described in Exhibit A attached hereto and expressly made a part hereof for the period July 1, 2018, through the date of production of the books and records.

B. That this court thereafter enter judgement against Kaywazee Installations, Inc. for all sums shown by the audit to be due to Plaintiffs, together with actual costs, double interest and actual attorney fees.

C. That this Court grant Plaintiffs any other relief that it deems appropriate.

Dated: January 12, 2022

**KOTZ SANGSTER WYSOCKI, P.C.**

By: /s/Walter B. Fisher Jr.  
Walter B. Fisher Jr. (P51337)  
Attorneys for Plaintiffs  
400 Renaissance Center, Suite 3400  
Detroit, MI 48243  
(313) 259-8300  
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# EXHIBIT A

**EXHIBIT A**

**RECORDS REQUIRED FOR AUDIT PURPOSES**

THE RECORDS NECESSARY TO PERFORM THE AUDIT ARE AS FOLLOWS:

CLOCK CARDS, TIME BOOKS OR OTHER DOCUMENTS SHOWING EMPLOYEE'S NAME, SOCIAL SECURITY NUMBER, STRAIGHT TIME AND OVERTIME HOURS WORKED AND THE DATES INVOLVED.

ORIGINAL PAYROLL RECORDS, SHOWING EACH EMPLOYEE'S NAME, ADDRESS AND SOCIAL SECURITY NUMBER, OCCUPATION, STRAIGHT TIME AND OVERTIME HOURS WORKED, RATE OF PAY, GROSS PAY, F.I.C.A. DEDUCTION, WITHHOLDING TAX DEDUCTION, AND OTHER DEDUCTIONS, CHECK NUMBER AND NET PAY.

CANCELED CHECKS.

EACH EMPLOYEE'S EARNING RECORDS, BY CALENDAR YEAR WITH QUARTERLY TOTALS.

COPY OF W-4 FORM FILED FOR EACH EMPLOYEE.

COPY OF W-2 FORM FILED FOR EACH EMPLOYEE ANNUALLY.

COPY OF W-3 FORM FILED FOR EACH YEAR.

COPY OF SOCIAL SECURITY QUARTERLY REPORT FILED (FORM 941) AND CANCELED CHECKS SUPPORTING PAYMENT OF SAME.

COPY OF EMPLOYER'S ANNUAL FEDERAL UNEMPLOYMENT TAX RETURN (FORM 940) AND CANCELED CHECKS SUPPORTING PAYMENT OF SAME.

COPY OF MESC FORM 1017 AND CANCELED CHECKS SUPPORTING PAYMENT OF SAME.

STUDENT PERMITS.

LETTERS OF INDENTURE CONCERNING APPRENTICES.

COPIES OF ALL 1099 AND 1096 FORMS.

COPIES OF ALL SUBCONTRACTS FOR CARPENTRY WORK

COPIES OF DOCUMENTS AND CHECKS RELATING TO PAYMENT FOR CARPENTRY WORK

COPIES OF ALL CHECK REGISTERS

# EXHIBIT B

# STEFANSKY, HOLLOWAY & NICHOLS, INC.

PAYROLL AUDITING SERVICES

22260 HAGGERTY ROAD, SUITE 350  
NORTHVILLE, MICHIGAN 48167

(248) 305-9905  
AUDIT SCHEDULE: (248) 305-9956  
FAX: (248) 305-9901

September 22, 2021

Kaywazee Installation, Inc.  
47689 Avante Drive  
Wixom, MI 48393

**RE: COMMERCIAL**

Dear Sir/Madam:

The Board of Trustees of the Michigan Regional Council of Carpenters' Fringe Benefit Funds has requested that a payroll audit be performed to confirm your contributions to these Funds. This examination will include all employees regardless of craft or occupation. The audit will cover the period of July 2018 to the present date.

The records necessary to perform the audit should include:

- **Employee earning records by calendar year, showing each employee's name, social security number, straight time and overtime hours worked, rate of pay, gross earnings, all deductions, and net pay.**
- A complete employee roster with trade classifications for each calendar year.
- W-2 form filed for each employee annually.
- W-3 form filed for each year.
- Current year U. I. A. Form 1028 (employer's quarterly wage detail report).
- 1099's issued annually.
- 1096 form filed for each year.

*Please contact this office at (248) 305-9956 between the hours of 8:30 a.m. and 5:00 p.m. immediately upon receipt of this letter* so that a mutually convenient date may be arranged to commence with this examination. Should you have any questions regarding the above request please feel free to either call us, or visit our web site at <http://theauditors.com>.

Very truly yours,



C. D. Nichols  
Fund Auditor

CDN/ds

xc: Coordinator's Office



JOHN H. FILDEW  
RANDALL S. WANGEN  
STEPHEN J. POKOJ  
CHARLES S. KENNEDY III  
WALTER B. FISHER JR.  
COLLEEN A. KRAMER  
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LAW OFFICES  
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WWW.FILDEWHINKS.COM

STANLEY L. FILDEW  
(1896-1978)  
FRANK T. HINKS  
(1887-1974)  
RICHARD E. HINKS  
(1916-1990)  
WILLIAM P. THORPE  
(1938-2012)

December 6, 2021

Kaywazee Installations, Inc.  
Attn: Brian Brunt  
47689 Avante Dr.  
Wixom, MI 48393

**Re: Michigan Regional Council of Carpenters Fringe Benefit Funds/  
Audit for the period July 1, 2018, to present**

Gentlemen:

We are attorneys for the Trustees of the Michigan Regional Council of Carpenters Fringe Benefit Funds. We have been advised that you have failed to produce your books and records for audit as required.

You must contact Stefansky, Holloway & Nichols, Inc., at (248) 305-9905 within 48 hours of receipt of this letter to make arrangements for production of your books and records for audit. A listing of the records to be produced are attached as Exhibit A.

While the audit may be held later, if Stefansky, Holloway & Nichols, Inc., has not advised me of your compliance by that time, further action will follow swiftly to enforce the rights of the Funds under the Collective Bargaining Agreements and may include the imposition of double interest, court costs and my actual attorney fees as provided by law and the agreements.

Very truly yours,

FILDEW HINKS, PLLC

A blue ink signature of Walter B. Fisher, Jr. The signature is written in a cursive style, with a large, sweeping 'W' and a smaller 'F'.

Walter B. Fisher, Jr.

WBF/tls  
Enclosure

cc: Sonya Winkelman (w/o enclosure)  
Stefansky, Holloway & Nichols, Inc. (w/o enclosure)

J:\2001\0792\Kaywazee Books and Records Demand ltr 12-06-2021.wpd

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